



CITY OF EL MONTE

OFFICE OF THE CITY ATTORNEY
CITY COUNCIL AGENDA REPORT

CITY COUNCIL MEETING OF JULY 21, 2015

July 15, 2015

The Honorable Mayor and City Council
City of El Monte
11333 Valley Boulevard
El Monte, CA 91731

Dear Mayor and City Council:

PUBLIC HEARING TO CONSIDER AND APPROVE A FIRST READING OF AN ORDINANCE OF THE EL MONTE CITY COUNCIL AMENDING CHAPTER 8.70 (MOBILEHOME PARK RENT STABILIZATION) TO TITLE 8 (HEALTH AND SAFETY) REGARDING MOBILEHOME PARK RENT STABILIZATION

IT IS RECOMMENDED THAT THE CITY COUNCIL:

1. Conduct a public hearing regarding the proposed Ordinance; and
2. Consider and approve the proposed Ordinance.

BACKGROUND AND PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

At the municipal election conducted on April 10, 1990, the voters of the City of El Monte (the "City") approved the "Mobilehome Tenant Rent Assistance Program" initiative ordinance (the "1990 Ordinance") which, among other things, precluded the City Council of the City of El Monte (the "City Council") from enacting any measure which "authorizes restrictions, ceilings, controls, or arbitration, mediation, administrative hearings, or trials concerning or which in any way relates to the subject to [sic] mobilehome park rents in El Monte which affects any Landlord...." (Source of quoted language: 1990 Ordinance).

At a November 6, 2012, General Municipal Election, the City of El Monte voters approved Measure F, entitled "El Monte Fairness For Mobilehome Owners Ordinance," which repealed the 1990 Ordinance and restored full police power to the City Council to conduct inquiry into rents being charged in mobilehome parks in the City.

On September 3, 2013, the City Council approved Ordinance No. 2829, which implemented mobilehome rent stabilization for mobilehome parks with more than 100 spaces in the City. Ordinance No. 2829 became effective on October 3, 2013, in accordance with Government Code Section 36937.

In light of the voter's approval of Measure "F" and the City Council's certification of the election results on December 18, 2012, the City Council found it to be in the interest of mobilehome park residents and owners, and the community at large that the City undertake a comprehensive study to consider regulations to protect affordable housing resources within mobilehome parks, including but not limited to, mobilehome park rent stabilization regulations. Such a study and concomitant report was a requirement under Ordinance No. 2829.

Pursuant to this requirement, the City Council authorized \$40,000 for the City's retention of a consultant to conduct a demographic and economic study in order to study conditions leading to the adoption of rent stabilization, the expansion of affordable housing options in mobilehome parks in the City, and to provide policy alternatives for consideration. The study and related report (the "Baar Report"), which was been posted on the City's website since February 10, 2015, was authored by Kenneth K. Baar, who has been recognized as an expert on mobilehome park issues whose research and observation regarding mobilehome parks has been frequently been cited in economic studies, land use planning reports, law revenue articles and also in several California appellate court opinions.

According to the Baar Report:

- There are 33 mobilehome parks with 1,427 spaces for mobilehomes. 572 of the spaces are in 18 mobilehome parks with less than 20 spaces.
- The mobilehome parks in the City are very diverse in terms of size and facilities.
- There is a low level of household incomes among mobilehome owners. 48% of respondents reported total annual household incomes under \$15,000 and 14.3% reported between \$15,000 and \$19,999.
- A survey of 50 mobilehome parks in other cities in the area confirmed that the rate of vacant space is low – 1.34% – and indicated that turnover in mobilehome ownership in mobilehome park is low – usually under 10% and commonly under 5%.
- Of the 50 parks surveyed in other cities, none reported a higher average rent than \$1,025.
- Mobilehome parks generally will not accept older mobilehomes. Many of the homes in mobilehome parks in the City and throughout the state are older homes which were manufactured in the 1950's, 1960's and early 1970's. Therefore if a mobilehome owner in the City cannot afford the rents in the mobilehome park he or she is residing in and desires to move into another mobilehome park, it would be necessary for him or her to purchase a mobilehome already in the other park.
- Of mobilehome park residents who responded, 63.9% live in singlewide mobilehomes and 35.4% live in doublewide mobilehomes.

- A majority of respondents had purchased their mobilehomes for under \$15,000. 80% of the singlewide homes purchase prices costs \$15,000 or less. On the other hand, about 80% of the doublewides cost more than \$15,000 and half were purchased for \$35,000 or more.
- Approximately 90 jurisdictions in California have rent stabilization ordinances. Generally, such ordinances apply to all of the mobilehome parks in the jurisdiction except for very small parks (e.g. less than ten spaces).
- For the purposes of meeting constitutional fair return standards under rent stabilization, a maintenance of net operating income ("MNOI") standard is a "fairly constructed formula." *Rainbow Disposal Co. v. Escondido Mobilehome Rent Review Bd.* (1998) 64 Cal.App.4th 1159.

The proposed Ordinance would expand the scope of rent stabilization coverage to all mobilehomes in the City, except mobilehomes owned by the mobilehome park owner in which they are located, as of July 1, 2015.

Under the proposed Ordinance, no rent in excess of the rent in effect as of July 1, 2015 may be charged unless authorized by one of the following sections of the proposed Chapter 8.70: (i) Section 8.70.060 (Annual increases based on increases in the Consumer Price Index); (iii) Section 8.70.075 (Rent levels for in-place sales of mobilehomes); (iv) Section 8.70.080 (Fair return standard); or (v) Section 8.70.100 (Rent increases for new capital improvements).

The proposed Ordinance would authorize annual rent increases equal to the percentage increase in the consumer price index (CPI) for the Los Angeles-Anaheim-Riverside area over the applicable year. Such increases would be allowed beginning in May 2016. Mobilehome park owners would be allowed under the proposed Ordinance to petition for rent increases under a fair return standard, which would assure that rent increases adequately cover operating cost increases and permit maintenance of net operating income levels in effect at the time of adoption of the mobilehome rental stabilization program.

The exception above notwithstanding, under the proposed Ordinance, **all** mobilehome parks in the City to provide annual registration statements to the City. This registration data would enable the City to monitor rental trends in City mobilehome parks and allow the City to better anticipate other regulatory options for the unique issues surrounding the preservation of mobilehome parks rental housing.

The proposed Ordinance does not allow additional rent increases when individual mobilehomes are sold in-place. A majority of the rent stabilization ordinances in California similarly do not allow additional rent increases when individual mobilehomes or coaches are sold in-place. With regard to an in-place transfer of a mobilehome in which the seller of the mobilehome is the mobilehome park owner of the mobilehome park in which such mobilehome is located, the maximum rent that can be charged following the sale of the mobilehome will be the rent as of the date in which the

mobilehome park owner acquired the mobilehome, adjusted by the percentage increase in the CPI since such acquisition.

In addition, new capital improvement pass-through rent increases would only be permitted upon consultation with affected mobilehome owners and the prior written consent of a majority of the affected spaces. (Note: costs for existing improvements are factored into operating expenses in the calculus of net operating income.) Also, rent reductions would be allowed for a reduction of services or facilities after due process and certain hearing officer findings. Under the proposed Ordinance, hearing officers must be licensed attorneys of the State Bar of California in good standing and have no financial interest in mobilehomes, mobilehome spaces or mobilehome parks

The proposed Ordinance would disallow waivers of rights as contrary to public policy, require posting of the proposed Ordinance, and prohibit mobilehome park owner retaliation against mobilehome owners or tenants for exercising rights under the Ordinance. It also prescribes penalties for excessive rents and enables the City Council to institute a civil action to compel compliance with its mobilehome rent regulations.

CONCLUSION

It is recommended that the City Council conduct a public hearing and approve the proposed Ordinance for a first reading.

Respectfully submitted,

JESUS M. GOMEZ
City Manager

MINH THAI
Economic Development Director

DAVID F. GONDEK
Senior Assistant City Attorney

Attachment:

1. Ordinance

DATE: July 21, 2015
PRESENTED TO EL MONTE CITY COUNCIL
<input type="checkbox"/> APPROVED <input type="checkbox"/> DENIED <input type="checkbox"/> PULLED <input type="checkbox"/> RECEIVE AND FILE <input type="checkbox"/> CONTINUED
<input type="checkbox"/> REFERRED TO
CHIEF DEPUTY CITY CLERK